

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

10

DECISION

TOPIC

Notice of Intended Action – Chapter 119 – Waste Oil

Attached for the Commission's information and review is a Notice of Intended Action to amend Iowa Administrative Code Chapter 119 "Waste Oil"

This amendment is being proposed to incorporate the changes made to Iowa Code 455D.13 by 2008 Iowa Acts, House File 2668. This legislation requires retailers that sell oil filters to either post a sign informing their customers of the nearest collection site for used oil filters or accept used oil filters for recycling. It also requires businesses to recycle the used oil filters that they generate.

The proposed changes to chapter 119 include addition of collection requirements for used oil filters, addition of signage requirements for filter retailers, updating the signage requirements for oil retailers, removal of some of the department's responsibilities, and removal of the state procurement regulations. The amendment will also change the term "waste oil" to "used oil" to be consistent with the 455D.13 and EPA regulations.

The Commission is asked to approve this Notice of Intended Action.

Tom Anderson, Environmental Specialist Senior
Land Quality Bureau
Environmental Services Division

August 15, 2008

Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.304, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 119, "Waste Oil" Iowa Administrative Code.

This amendment is being proposed to incorporate the changes made to Iowa Code 455D.13 by 2008 Iowa Acts, House File 2668. This legislation requires retailers that sell oil filters post a sign informing their customers of the nearest collection site for used oil filters. It also requires businesses to recycle the used oil filters that they generate.

The proposed changes to chapter 119 include addition of collection requirements for used oil filters, addition of signage requirements for filter retailers, updates to the signage requirements for oil retailers, removal of some of the department's responsibilities and removal of the state procurement regulations. The amendment will also change the term "waste oil" to "used oil" to be consistent with the 455D.13 and EPA regulations.

Any interested person may make written suggestions or comments pertaining to the proposed amendment on or before 4:30 p.m. on October 28, 2008. Such written materials should be directed to Kathleen Hennings, Land Quality Bureau, Iowa Department of Natural Resources, 502 East 9th Street, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-8646; or Email Kathleen.Hennings@dnr.iowa.gov. Persons wishing to convey their views orally should contact Kathleen Hennings by telephone at (515)281-5859

When submitting comments, stakeholders are encouraged by the Department to utilize the following guidelines. These guidelines aid the Department in accurately understanding and creating a record of your input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments on behalf of a business or organization or as an individual.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information you utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language to improve the specific rule(s) and explain why.

A public hearing will be held on October 28, 2008, at 1:00 in the Fifth Floor Conference Rooms of the Wallace State Office Building, 502 East Ninth Street, Des Moines, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources to advise of specific needs.

This amendment is intended to implement 2008 Iowa Acts House File 2668.

The following amendment is proposed.

Item 1. Amend 567-Chapter 119 as follows:

CHAPTER 119

WASTE USED OIL AND USED OIL FILTERS

567—119.1(455D,455B) Authority, purpose, and applicability.

119.1(1) Authority. Pursuant to Iowa Code sections 455D.7(1), 455D.6(6), and 455B.304, the environmental protection commission is given the authority to adopt rules regulating the disposal, collection, recycling and reuse of ~~waste~~ used oil and used oil filters.

119.1(2) Purpose. The purpose of these rules is to protect the public health and the environment by regulating the disposal and collection of ~~waste~~ used oil and used oil filters; and to promote the reuse and recycling of used oil and used oil filters. ~~which is a limited energy resource.~~

119.1(3) Applicability. The provisions of this chapter apply to oil retailers, oil filter retailers, sanitary disposal project permittees, ~~and~~ persons involved in the collection of ~~waste~~ used oil and persons involved in the generation or collection of used oil filters.

567—119.2(455D,455B) Definitions. The following definitions apply to the provisions of this chapter:

“Contaminated” means ~~waste~~ used oil mixed with hazardous waste as defined by the resource conservation and recovery Act or with incompatible wastes including, but not limited to: antifreeze, solvents, paints, pesticides, or household hazardous materials. Minimal amounts of vehicle fuel shall not be considered an incompatible waste.

“Customer” means any individual who purchases oil or oil filters or generates ~~waste~~ used oil or used oil filters for personal or family purposes, including a farmer or a farm household.

“Department” means the department of natural resources.

~~“Division” means the land quality and waste management assistance division of the department.~~

~~“Lubricating oils” means engine lubricating oils, hydraulic fluids and gear oils, excluding marine and aviation oils.~~

~~“Recycling”~~ “Used oil recycling” means the preparation of used oil for reuse as a petroleum product by re-refining, reprocessing, reclaiming, or other means or to use used oil as a substitute for a petroleum product made from new oil, provided that the preparation or use is operationally safe, environmentally sound, and complies with all federal and state laws.

“Retailer” means a person offering for sale or selling a petroleum-based or synthetic oil or oil filter to the ultimate consumer or user of the product, as an over-the-counter product or whereby the consumer is charged separately for the oil ~~product~~ or oil filter when coupled with a service.

“Tank” means a closable stationary or mobile device designed to contain an accumulation of ~~waste~~ used oil and constructed of non-earthen materials (e.g., concrete, steel, plastic) that provide structural support.

~~“waste~~ Used oil” means any petroleum-based or synthetic oil which through its use, storage, or handling has become unsuitable for its original purpose due to the presence of chemical or physical impurities. ~~Waste~~ Used oil includes, but is not limited to, the following:

1. Spent lubricating fluids which have been removed from an engine crankcase, transmission, gearbox, or differential of an automobile, bus, truck, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine.

2. Spent industrial oils, including compressor, turbine, bearing, hydraulic, metalworking, electrical, and refrigerator oils.

~~Waste~~ Used oil does not include oil which has been contaminated or contains PCBs of 5ppm or greater.

“~~Waste~~ Used oil collection site” means any commercial, municipal, or nonprofit establishment or operation which has a ~~waste~~ used oil collection tank on the premises, and accepts ~~waste~~ used oil for temporary storage prior to the recycling of that which is collected.

“~~Waste~~ Used oil collector” means any sanitary landfill operator, sanitary disposal project operator, oil retailer, or other individual who operates a ~~waste~~ used oil collection site.

“Used oil filter” means a filter that removes impurities from the oil used to lubricate an internal-combustion engine and has been used for its intended purpose.

“Used oil filter recycling” means the preparation of used oil filters for steel recovery.

567—119.3(455D,455B) Prohibited disposal.

119.3(1) ~~Waste~~ Used oil shall not be accepted for final disposal at any sanitary landfill. However, a sanitary landfill or sanitary disposal project, as defined in Iowa Code section 455B.301, may accept ~~waste~~ used oil for temporary storage or collection if the ultimate disposition of the oil is for recycling or reuse. All necessary permits or permit conditions must be obtained prior to the storage or collection of ~~waste~~ used oil at these landfills and projects.

119.3(2) ~~Repealed IAB 8/18/93, effective 9/22/93. A business that generates used oil filters or accepts used oil filters from a person shall not dispose of the used oil filters in a sanitary landfill and shall source separate and recycle the used oil filters.~~

567—119.4(455D,455B) Operational requirements for acceptance of used oil.

~~119.4(1)~~ Collection. Sanitary landfill operators, sanitary disposal project operators, commercial waste oil collectors, oil retailers, or other individuals who choose to collect Any person accepting waste used oil from customers shall comply with the following requirements:

a. ~~119.4(1)~~ Waste Used oil shall be accepted which is contained in a closed, unbreakable, preferably reusable, container.

b. ~~119.4(2)~~ Waste Used oil collectors shall provide supervision of the collection process to minimize the risk of spills and to prevent customers from depositing contaminated waste used oil into the collection tank. However, this does not preclude designating unsupervised drop-off sites for waste used oil as long as the following conditions are met:

(1) a Only sealed containers of five gallons or less shall be accepted.

(2) b The designated drop-off site must be ~~wholly or partially sheltered~~ protected from the elements.

(3) c Customers shall drop off their ~~containers only~~ used oil in containers at the designated site and are not permitted to deposit their waste used oil into a collection tank.

(4) d The designated site must be located on an ~~impermeable~~ impervious surface engineered to contain potential spills.

e. ~~119.4(3)~~ During noncollection hours, the tank must be secured to prevent the contamination of the collected waste used oil.

d. ~~119.4(4)~~ A sign shall be placed on or near the waste used oil collection tank which includes the information that this tank is for waste used oil collection only and the depositing of other materials is prohibited.

~~119.4(5)~~. Collectors of waste used oil shall ensure that the ultimate disposition of waste used oil collected is for recycling and reuse.

f. ~~119.4(6)~~ There is no obligation to accept contaminated oil ~~from the customer~~.

g. ~~119.4(7)~~ Used oil found to be contaminated shall be managed as a hazardous waste.

119.4(8) ~~Waste~~ Used oil collectors shall comply with Iowa Code section 455B.386 when actual or imminent oil spills pose a threat to the public health or the environment.

119.4(9) Absorbent material shall be available at the site for use by the operator to control spillage or discharge of used oil.

119.5 Operational requirements for acceptance of used oil filters. Any person accepting used oil filters from customers shall comply with the following requirements:

119.5(1) The used oil filters will be collected, stored and transported in a container designed and maintained to prevent the spillage or discharge of used oil from the filters.

119.5(2) The collection container shall be located on an impervious surface engineered to contain spills.

119.5(3) The collection container shall be protected from inclement weather.

119.5(4) The collection container shall be clearly labeled “used oil filters”

119.5(5) Used oil filter collectors shall comply with Iowa Code section 455B.386 when actual or imminent oil spills pose a threat to the public health or the environment.

119.5(5) Absorbent material shall be available at the site for use by the operator to control spillage or discharge of used oil from the used oil filters.

~~**119.4(2) Retailers.** In addition to the above requirements relating to waste oil collection, retailers also shall comply with the following:~~

~~a. A sign shall be placed near the point of sale which informs the customer that it is unlawful to dispose of waste oil at a sanitary landfill, and that customers should return their waste oil to waste oil collection sites for recycling and reuse.~~

~~b. Retailers who choose to collect waste oil shall accept waste oil generated by residential households or farmers, but are not required to collect waste oil generated by commercial or municipal establishments.~~

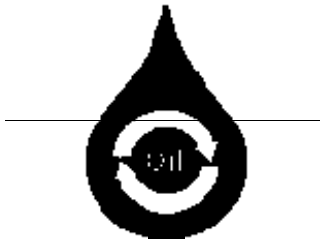
~~c. Waste oil shall be accepted during normal business hours.~~

~~d. Retailers who choose not to collect waste oil shall post a durable, legible sign at least 8½" by 11" in size and containing the following information:~~

~~(1) The language "RECYCLE USED OIL" in bold lettering;~~

~~(2) A list of the benefits from recycling waste oil including, but not limited to, "conserves energy, reuses limited resources, and protects Iowa's drinking water";~~

~~(3) At least 2 inches in length, the federal Environmental Protection Agency's oil recycling symbol as shown below;~~



~~(4) The language "used oil is a household hazardous material" and, at least 2 inches in length, the household hazardous materials program symbol as shown below;~~



~~(5) The groundwater protection hotline telephone number referenced as a source for more information on used oil recycling;~~

~~(6) The warning that the disposal of waste oil in a landfill or its deposit or discharge into any state waterway is unlawful;~~

~~(7) The name, address and location of at least one used oil collection site located within the county in which the retailer is located. If there is more than one used oil collection site located in the applicable county, then the nearest collection site shall be listed on the posted sign.~~

~~Retailers shall ensure that the mandated signs are located according to the provisions listed above. Retailers may obtain the required signs upon request from the department. Retailers choosing to print and post their own signs must obtain a variance from the departmental rules. Signs must be at least 8½" by 11" in size and contain the information stipulated above. To request a variance, retailers should forward to the division for review the sign they wish to substitute for the departmental sign.~~

~~Those retailers who do not sell any other household hazardous materials except for motor oil products may comply with the household hazardous materials informational sign posting requirement of 567—Chapter 144 through compliance with this chapter.~~

119.6 Oil retailer requirements In addition to the above requirements relating to used oil and used oil filter collection, used oil retailers also shall comply with the following:

119.6(1) A durable, legible sign at least 8½" by 11" in size shall be placed near the point of sale which contains the following:

a. Language informing the customer that it is unlawful to dispose of used oil at a sanitary landfill, and that customers should return their used oil to used oil collection sites for recycling and reuse.

b. The language "RECYCLE USED OIL" in bold lettering;

c. A list of the benefits from recycling used oil including, but not limited to, “conserves energy, reuses limited resources, and protects Iowa’s drinking water”;

d. The language “used oil is a household hazardous material” and, at least 2 inches in length, the household hazardous materials program symbol as shown below;



e. The warning that the disposal of used oil in a landfill or its deposit or discharge into any state waterway is unlawful;

f. The name, address and location of at least one used oil collection site located within the county in which the retailer is located. If there is more than one used oil collection site located in the applicable county, then the nearest collection site shall be listed on the posted sign.

119.6(2) Retailers may obtain the required signs upon request from the department. Retailers choosing to develop and post their own signs must obtain a variance from the departmental rules. Signs must be at least 8½" by 11" in size and contain the information stipulated above. To request a variance, retailers should forward to the department for review the sign they wish to substitute for the departmental sign.

119.6(3) Retailers are not required to collect used oil generated by commercial or municipal establishments.

119.6(4) Used oil shall be accepted during normal business hours.

119.6(5) Those retailers who do not sell any other household hazardous materials except for motor oil may comply with the household hazardous materials informational sign posting requirement of 567—Chapter 144 through compliance with this subrule.

119.7 Oil filter retailer requirements In addition to the above requirements relating to used oil and used oil filter collection, oil filter retailers also shall comply with the following:

119.7(1) A durable, legible sign at least 8½" by 11" in size shall be placed near the point of sale which contains the following:

- a. The language “RECYCLE USED OIL FILTERS” in bold lettering;
- b. A list of the benefits from recycling used oil filters including, but not limited to, “conserves energy, reuses limited resources, and protects Iowa’s drinking water”;
- d. The language “used oil filters are a household hazardous material” and, at least 2 inches in length, the household hazardous materials program symbol as shown below;



e. The name, address and location of at least one used oil filter collection site located within the county in which the retailer is located. If there is more than one used oil filter collection site located in the applicable county, then the nearest collection site shall be listed on the posted sign.

119.7(2) Retailers who choose to collect used oil filters shall accept used oil filters generated by residential households or farmers, but are not required to collect used oil filters generated by commercial or municipal establishments.

119.7(3) Used oil filters shall be accepted during normal business hours.

119.7(4) Those retailers who do not sell any other household hazardous materials except for oil filters may comply with the household hazardous materials informational sign posting requirement of 567—Chapter 144 through compliance with this subrule.

567—119.8(455D,455B) Tanks.

119.8(1) Aboveground. In addition to the requirements imposed by the office of the state fire marshal, the following standards are applicable to aboveground-~~waste~~ used oil collection tanks:

a. The tank shall be of sufficient size to handle the projected quantities of used oil to be returned to this specific collection site.

b. The tank shall be designed and maintained to prevent the spillage or discharge of ~~waste~~ used oil. Tanks must be set upon an impermeable surface engineered to contain potential spills.

c. Absorbent material shall be available at the tank site for use by the operator to control waste oil spillage or discharge.

d. The tank shall have a level gauge or some other adequate means for checking the oil level within the tank.

e. The tank shall be constructed in accordance with American Petroleum Institute specifications and standards.

119.8(2) Underground. Underground storage tanks used to collect or store ~~waste~~ used oil shall comply with the standards in part 8 of division IV of Iowa Code chapter 455B, entitled “Underground Storage Tanks,” and the promulgated rules, Iowa Administrative Code, 567—Chapters 135 and 136.

567—119.9(455D,455B) Locating collection sites. If the retailer is unaware of any locations within the county where ~~waste~~ used oil or used oil filters ~~is~~ are being accepted from customers, ~~then the retailer shall cooperate with other retailers to identify a waste oil collection site for customers. To identify a waste oil collection site, retailers should consider recruiting an operator~~

~~of a facility which already has the means to collect waste oil. If through this cooperative effort no sites can be identified, then the retailer should consider accepting waste oil from customers according to the standards listed in this chapter. the retailer shall contact the department to determine if a collection point is located in the county. If no collection site is currently available in the county, the retailer shall accept used oil and used oil filters from customers.~~

~~567 119.7(455D,455B) Land quality and waste management assistance division responsibilities.~~

~~**119.7(1) Groundwater protection hotline.** The division will promote the recycling of used oil through the continued staffing of the groundwater protection hotline. Staff will provide general information, distribute written materials concerning waste oil recycling, and maintain an updated, statewide list of waste oil collection facilities. Using the groundwater protection hotline, customers should contact division staff to determine environmentally acceptable disposal methods for contaminated waste oil.~~

~~**119.7(2) County coordinators.** The division will designate, when feasible, waste oil recycling coordinators for each county to promote waste oil recycling, to identify existing waste oil collection sites, and to help establish additional collection sites.~~

~~567 119.8(455D,455B) State procurement.~~ All state officials shall promote the procurement and purchase of lubricating oils and other petroleum products that are made from recycled oils. Recycled oils which meet state specifications are recommended for use as engine lubricants in state vehicles, as hydraulic and gear lubricants for heavy equipment and machinery, and as a fuel oil for backup heating systems at state facilities with fuel oil heating systems.

These rules are intended to implement Iowa Code sections 455D.6(6) and 455D.13 and chapter 455B, division IV, part 1.

Date

Richard A. Leopold, Director